

INSTRUCTIONSpecial EducationImpartial Due Process Hearing

1. Request for a hearing shall be made to the school board, or its designee.
2. The school division must inform the parents of any free or low-cost legal and other relevant services available in the area.
3. The independent hearing officer is selected by the school board from a list maintained by the Virginia Department of Education.
4. The appointment of the hearing officer must be effected within five administrative working days of the request for a hearing.
5. Both the school division and the parents have the following rights: (1) To have other individuals with specialized knowledge or training present at the hearing; (2) To present evidence, confront, cross-examine, and compel witnesses to attend the hearing; (3) To prohibit the introduction of any documentary evidence or witness at the hearing that has not been disclosed to the other party at least five [5] administrative working days before the hearing; (4) To obtain a written or electronic verbatim record of the hearing; (5) To obtain written findings of fact and determinations at the conclusion of the deliberations; and (6) To have counsel present at the hearing.
6. In addition to the rights accorded to both parties to the hearing, parents have the following rights: (1) To inspect and to review all of the child's educational records; (2) To request an independent evaluation for the child at public expense; (3) To have the child present at the hearing; and (4) To have the hearing open to the public.

INSTRUCTIONSpecial Education (continued)Impartial Due Process Hearing (continued)

7. The responsibilities of the local school division are as follows: (1) To appoint the hearing officer and forward all necessary information to him promptly, along with the official request for a hearing; (2) To arrange for recording equipment or a stenographer to be present; and (3) To maintain a copy of the hearing officer's findings of fact and decision, a copy of the implementation plan, and a copy of the electronic verbatim transcript of the hearing proceedings.
8. The responsibilities of the hearing officer are as follows: (1) To secure a time, date, and location for the hearing which is convenient to both parties within five [5] administrative workings days of appointment; (2) To ascertain whether the parties will have attorneys at the hearing; (3) To receive a list of witnesses and documentary evidence for the hearing no later than five [5] administrative working days prior to the hearing; and (4) To request an independent educational evaluation if deemed necessary.
9. The findings of fact and decision must be rendered by the hearing officer within [45] administrative working days after the appeal is initiated. A copy of the findings is sent to both parties and the Division of Special Education, Virginia Department of Education.
10. The cost for the due process hearing shall be shared by the school division and the State Department of Education.
11. Either party may appeal the hearing officer's decision. Request for such appeal must be initiated within forty-five administrative working days of the decision.

Approved by Superintendent: April 6, 1987